



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jay A. Fishman
Serial No. : 10/723,552
Filed : November 26, 2003
Title : MOLECULAR SEQUENCE OF SWINE RETROVIRUS AND METHODS OF USE

Art Unit : 1637
Examiner : Jezia Riley

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In the action mailed October 21, 2005, the Examiner requested that Applicant elect a single SEQ ID NO from the sequences recited in the claims. Applicant elects SEQ ID NO:3. Claims 1 (parts e and f), 6, 7, 8 (parts g, h, and i), 15-17, 18 (parts e and f), 23, 24, and 26 (parts e and f) read on the elected SEQ ID NO. This election is made with traverse.

Applicant respectfully requests that the Examiner withdraw the restriction requirement with respect to SEQ ID NO:1, SEQ ID NO:2, and SEQ ID NO:3. In the action mailed October 21, 2005, the Examiner stated that the sequences are structurally unrelated. This is incorrect with respect to SEQ ID NO:1, SEQ ID NO:2, and SEQ ID NO:3. These three sequences are related porcine retroviral sequences which encode structurally related proteins. As such, a search and examination of these sequences together can be made without serious burden. Furthermore, examination of all three sequences together would promote efficient prosecution.

Claims 1, 8, 18, and 26 recite SEQ ID NO:1, SEQ ID NO:2, SEQ ID NO:3, and complementary sequences thereof as part of Markush groups. If the members of a Markush group are sufficiently few in number or so closely related that a search and examination of the

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Attorney's Docket No.: 14846-011004 / MGH 0978-2D


entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions. MPEP 803.2. As discussed above, SEQ ID NO:1, SEQ ID NO:2, and SEQ ID NO:3 are related porcine retroviral sequences. Given that the members of the Markush groups in claims 1, 8, 18, and 26 are both few in number and related, examination of the Markush groups in these claims is proper.

No statement herein is an admission that any claim is not patentably distinct from another or that any claim is obvious over another. No fees are believed to be due with this response.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 14846-011004.

Respectfully submitted,

Date: 11/21/05


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